

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on December 21, 2015.

MINUTES OF THE WYOMING BOARD OF ZONING APPEALS
HELD AT WYOMING CITY HALL

December 7, 2015

The meeting was called to order at 1:30 P.M. by Chairman VanderSluis.

Members present: Beduhn Buist Lomonaco Meeter
 Palmer VanderSluis VandenBerg

Other official present: Tim Cochran, City Planner

Member absent: Postema

A motion was made by Lomonaco, and seconded by Beduhn to excuse Postema.

Motion carried: 7 Yeas 0 Nays

A motion was made by Beduhn, and seconded by Palmer to approve the minutes of the Board of Zoning Appeals meeting.

Motion carried: 7 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V150052 P.P. #41-17-02-426-023
Godfrey-Lee Public School
982 Lee St. S.W.
Zoned I-2

Secretary Lomonaco read the request for a variance from the City of Wyoming Zoning Code as follows:

Zoning Code Section Table 90-798 does not allow a moving image or changeable sign to be part of a wall sign in a residential district. Godfrey Lee Public Schools desires to place a 100 square foot wall sign on the building which would contain a 27.6 square foot moving image display. The requested variance is to authorize the proposed 27.6 square foot moving image display as part of the wall sign.

Chairman VanderSluis opened the public hearing.

Scott Bergman, Godfrey Lee Schools, 1324 Burton St. S.W., stated that the school was looking to have the same signage as what the high school has. The schools will adhere to the same stipulations,

1. Sign will be turned off between the hours of 10:00 P.M. and 7:00 A.M.
2. Message changes will occur no less than 30 seconds apart.

3. Method of change will be instantaneous.

There being no further remarks, Chairman VanderSluis closed the public hearing.

Cochran said the three signs for Godfrey Lee Schools are for the same request. The City appreciated that Godfrey Lee Schools works with the City to adhere to City zoning as best as they can. Technically schools fall under State jurisdiction, and therefore would not need a variance to do what they proposed. The City recognizes that it is important for schools to be able get information to their students and the community in which they are located. The City also appreciated that the schools would self-impose the stipulations. The request is unique for residential areas, and the City staff supported the variance request.

A motion was made by Lomonaco and seconded by Beduhn that the request for a variance in application no. V150052 be granted, accepting staff's Finding of Facts.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because as a public school facility it is important to provide information to the interested general public within this school district. Technology such as changeable message boards can serve this purpose. A similar variance was granted by the BZA in 2012 for the Godfrey Lee Public High School at 1335 Lee Street, S.W.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because it is reasonable to utilize newer technology to provide public information. As a residential zoned area, the zoning code does not permit electronic message boards because of possible garish appearance of bright lights, rapid message scrolling, etc. The following restrictions are placed on this sign: sign to be turned off between the hours of 10:00 P.M. and 7:00 A.M., message changes may occur no less than 30 seconds apart, and method of change to be instantaneous. This is the same restriction applied to the 2012 Godfrey Lee High School signage variance.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the public school has operated from this site for a considerable length of time. The proposed sign variance will not further influence the value of nearby properties or increase congestion on the adjoining street.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the need for public schools to inform the general public is unique.

Motion carried: 7 Yeas 0 Nays (Resolution #5594)

PUBLIC HEARING:

Appeal #V150053 P.P. #41-17-02-426-024

Godfrey-Lee Public School

961 Joosten St. S.W.

Zoned I-2

Secretary Lomonaco read the request for a variance from the City of Wyoming Zoning Code as follows:

Zoning Code Section Table 90-798 does not allow a moving image or changeable sign to be part of a wall sign in a residential district. Godfrey Lee Public Schools desires to place a 100 square foot wall sign on the building which would contain a 27.6 square foot moving image display. The requested variance is to authorize the proposed 27.6 square foot moving image display as part of the wall sign.

Chairman VanderSluis opened the public hearing.

Scott Bergman, Godfrey Lee Public Schools referred to his previous remarks for the first variance request.

There being no further remarks, Chairman VanderSluis closed the public hearing.

Cochran stated staff's recommendation to grant the variance was based on his previous comments for #V15-0052.

A motion was made by Beduhn and seconded by Beduhn that the request for a variance in application no. V150053 be granted, accepting staff's Finding of Facts.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because as a public school facility it is important to provide information to the interested general public within this school district. Technology such as changeable message boards can serve this purpose. A similar variance was granted by the BZA in 2012 for the Godfrey Lee Public High School at 1335 Lee Street, S.W.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because it is reasonable to utilize newer technology to provide public information. As a residential zoned area, the zoning code does not permit electronic message boards because of possible garish appearance of bright lights, rapid message scrolling, etc. The following restrictions are placed on this sign: sign to be turned off between the hours of 10:00 P.M. and 7:00 A.M., message changes may occur no less than 30 seconds apart, and method of change to be instantaneous. This is the same restriction applied to the 2012 Godfrey Lee High School signage variance.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the public school has operated from this site for a considerable length of time. The proposed sign variance will not further influence the value of nearby properties or increase congestion on the adjoining street.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or

situation because the need for public schools to inform the general public is unique.

Motion carried: 7 Yeas 0 Nays (Resolution #5595)

PUBLIC HEARING:

Appeal #V150054 P.P. #41-17-02-455-011
Godfrey-Lee Public School
1920 Godfrey Ave. S.W.
Zoned R-2

Secretary Lomonaco read the request for a variance from the City of Wyoming Zoning Code as follows:

Zoning Code Section Table 90-798 does not allow a moving image or changeable sign to be part of a wall sign in a residential district. Godfrey Lee Public Schools desires to place a 100 square foot wall sign on the building which would contain a 27.6 square foot moving image display. The requested variance is to authorize the proposed 27.6 square foot moving image display as part of the wall sign. was read by Secretary Lomonaco.

Chairman VanderSluis opened the public hearing.

Scott Bergman, Godfrey Lee Public Schools referred to his previous remarks for the first variance request.

There being no further remarks, Chairman VanderSluis closed the public hearing.

Cochran stated staff's recommendation to grant the variance was based on his previous comments for #V15-0052.

A motion was made by VandenBerg and seconded by Beduhn that the request for a variance in application no. V150054 be granted, accepting staff's Finding of Facts.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because as a public school facility it is important to provide information to the interested general public within this school district. Technology such as changeable message boards can serve this purpose. The property is located adjacent to a commercial district where message boards are permitted. A similar variance was granted by the BZA in 2012 for the Godfrey Lee Public High School at 1335 Lee St. S.W.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because it is reasonable to utilize newer technology to provide public information. As a residential zoned area, the zoning code does not permit electronic message boards because of possible garish appearance of bright lights, rapid message scrolling, etc. The following restrictions are placed on this sign: sign to be turned off between the hours of 10:00 P.M. and 7:00 A.M., message changes may occur no less than 30 seconds apart, and method of change to be instantaneous. This is the same restriction applied to the 2012

Godfrey Lee High School signage variance.

3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the public school has operated from this site for a considerable length of time. The proposed sign variance will not further influence the value of nearby properties or increase congestion on the adjoining street.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the need for public schools to inform the general public is unique.

Motion carried: 7 Yeas 0 Nays (Resolution #5596)

REQUEST FOR INTERPRETATION:

R.W. Mercer

The petitioner requested an interpretation of the City of Wyoming Zoning Code as follows:

Zoning Code Article XXIII Signs establishes signage regulations for the City of Wyoming. The petitioner desires the Board of Zoning Appeals to interpret the Code to determine whether gasoline pump island messaging displays, consisting of independent “wave”, “flag” and “koala” features, should be considered Device and/or Incidental signage.

Cochran explained a situation had evolved regarding a new development in the City. The Board’s interpretation of the code in regards to this matter, will give the City the basis how to move forward on this particular situation. The new gasoline station at the corner of 44th St. S.W. and Clyde Park had erected a red structure referred to as a “flag” and a “wave” by each of the gasoline pumps. Cochran displayed a conceptual design drawing. The flag portion of the structure had branding posted on it, specifically “Synergy.” The wave portion is equipped with L.E.D. banding and has compartments for posters for product advertising. In addition, there is a proposed “koala” that would clamp onto existing canopy support structures, which would have space for information to be adhered. When the City discovered the flag and wave had already been installed there were concerns how those items fit or did not fit within the Zoning Code. In order for signage to be defined by the Zoning Code it must be included in the code. If it is not included in the code, it is not allowed. Signage is a big issue within the City as the Zoning Board has experienced by the number of variances requested regarding signage. The Board does not see many of the issues that staff deals with regarding signage. The City of Wyoming is considered to be liberal in signage allowance. However that does not mean that all existing signage meets code requirements. Sign ordinances are hard to enforce with the number of businesses operating within the City. He turned the meeting over to the petitioner, but left himself available for further information as needed.

Rod Zeinstra, C.W. Mercer passed out pictures of the site of reference. He explained that items in question were installed at this facility as part of the new image branding for Exxon Mobil. In the past Mobil had used blue banding, but being a new location the new branding

was installed at this location. The flag and wave will replace signage that had is typically erected on top of the pumps. This made it hard for attendants to see over the tops of pumps. The koala will have some space for ads plus some of the stickers and signs that are currently posted on the pump. Some of those stickers are required by State and Federal regulation, and are hard to see with the number of stickers currently on the pumps.

Cochran inserted the City was not concerned with the posting of required items. The City is concerned that the structures will become a permanent use for advertising. Also the signs that some companies place on top of the pumps are not a permitted use, but the City has not pursued regulation of such at this time.

Beduhn asked if the State of Michigan had given approval to move the required stickers from the pump to the koala.

The petitioner acknowledged that they are currently discussing the matter with the State, and do not have a decision at this time.

VanderSluis read the definitions of incidental signs and device signs as found in table 90-794: Exempt Signs. He remarked that he did not see the items that were presented to the Board as meeting either of the definitions.

Lomonaco commented that while she understood the new signage replace old signage, it does not change an illegal sign to a legal sign.

Mr. Zeinstra agreed with City staff that the proposed items are not included in the existing code, however he did not know how to ask for a variance for something not defined by code.

VanderSluis looked at the request for the interpretation as separate from any possible desired or required variance request. The two requests are administered separately.

Cochran agreed with the Board's comments. He thought the koala if used for regulatory stickers may fit in the code, but the flag and wave is signage. As such, the additional signage has to be wrapped in the allowed signage for the development. The canopies already include signage. Without the messages on the structures it would not be determined to be signs.

A motion was made by VanderSluis and seconded by Buist that the flag, wave, koala or any sign in the presentation was not an incidental sign because they are not attached to a permitted sign, a wall or a window.

Motion carried: 7 Yeas 0 Nays

A motion was made by VanderSluis and seconded by Lomonaco that the flag, wave, koala or any sign in the presentation was not a device sign because they do not indicate the contents of the fuel dispensing unit to which they are adjacent.

Motion carried: 7 Yeas 0 Nays

Request for Reconsideration:

Appeal #V150048 P.P. #41-18-19-302-035
Richard Postema Associates
150 Burt St. S.W.
Zoned R-3

Cochran noted that the Board had denied a variance request at the November 2, 2015 meeting for a lot split with reduced lot size and house setbacks. Mr. Richard Postema had submitted a letter on December 7, 2015 prior to the meeting to request reconsideration.

No motion was made to reconsider the variance request.

The new business items were discussed by Cochran and the Board members.

Canda Lomonaco
Secretary

CL:cb